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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,025	03/16/2004	John D. Zukley	3195 CIP	2658
22474	7590	11/01/2006	EXAMINER	
DOUGHERTY CLEMENTS 1901 ROXBOROUGH ROAD SUITE 300 CHARLOTTE, NC 28211			RACHUBA, MAURINA T	
			ART UNIT	PAPER NUMBER
			3723	

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/802,025

Applicant(s)

ZUKLEY, JOHN D.

Examiner

M Rachuba

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                  |                                                                                        |
|----------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                      | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                             | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/16/04</u> . | 6) <input type="checkbox"/> Other: ____                                                |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-8, 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Gerrard et al, GB 2 288 363. '363 discloses the claimed invention, including a method and apparatus for automated recycling of used brick by removing mortar from the surfaces of the brick, including providing a computer **64** to control the cutting process and apparatus, and imaging device **62**, and page 11, paragraph 1, to determine the position of the brick relative to the cutting devices, at least one transport device, page 10, paragraph 4, for transporting the brick between the cutting devices, and a first cutting device for cutting mortar from a rear and front of the brick, **8,10**, a second cutting device for cutting mortar from ends of the brick, **54** and a third cutting device **4,6** for cutting mortar from a top and bottom of the brick. Note that the cutting devices have positioning means (hydraulic rams or screws).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9-14, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerrard et al, '363 in view of La Velle et al, 3,087,483. '363 does not disclose that the cutting devices are saws, that the imaging device is positioned above the brick, or that the third cutting device is movable in three dimensions. '483 teaches that it is old and well known to use saws to clean mortar from used brick. It would have been obvious to one of ordinary skill in the art to have provided '363 with saws as the cutting devices, to chip away the mortar while driving the brick through the process, as taught by '483, column 1, lines 43-58 and column 2, lines 13-15. Regarding claims 13 and 14, '383 does not explicitly disclose the position of the imaging device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have positioned the imaging device where desired and expedient, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. Here, the imaging device would function regardless of its location as long as it could sense the position of the brick relative to the cutting blades.

5. Claims 16, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerrard et al, '363 in view of Seeley, 4,557,246. '363 does not disclose stacking the bricks onto a pallet, or the apparatus comprising a movable trailer that houses the apparatus. '246, in a similar brick cleaning apparatus, teaches stacking the cleaned bricks on a pallet. It would have been obvious to one of ordinary skill in the art to have provided '363 with a step of stacking the cleaned bricks onto a pallet, as taught by '246, column 4, lines 56-60, to allow the bricks to be efficiently transported to a worksite. Further, '246 teaches using a trailer to house the apparatus, figure 3. It would have

been obvious to one of ordinary skill to have housed the apparatus of '363 in a movable trailer as taught by '246, column 2, lines 56-59, to allow the apparatus to be moved to a site where used bricks are available. Regarding claim 20, as broadly claimed, '363 disclose that the second and third cutting devices are movable in three dimensions, see for example page 2, paragraph 6, which discusses that the cutting devices are movable relative to the corresponding brick surface. Without further structure that would differentiate '363 from the claimed invention, it is the examiner's position that '363 discloses moving the cutting means in three dimensions.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other similar brick cleaning apparatus and methods are cited of interest.

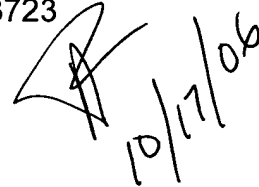
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M Rachuba whose telephone number is 571-272-4493. The examiner can normally be reached on Monday-Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3723

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M Rachuba  
Primary Examiner  
Art Unit 3723

A handwritten signature, possibly "Rachuba", is written over the printed name. Below the signature, the date "10/17/06" is handwritten.